

DRAFT



CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
SEPTEMBER 18, 2006

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Marraffa, and Schlichting. Council Members absent: Edens and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Director of Public Works, Parks Maintenance and Engineering (PWPME) Arnoult, Planning and Code Administration Director Ossont, Planners Robinson and Marsh, City Attorney Borten and Executive Assistant Stokes. Planning Commissioners present for the joint public hearing: Bauer, Hopkins, Kaufman, Levy and Winborne.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by City Planner Rob Robinson.

II. INVOCATION

The invocation was led by the Reverend Gail Unterberger, Pastoral Psychotherapies.

III. APPROVAL OF MINUTES

Vote on the minutes of the Mayor and Council meeting held September 5, 2006, were deferred.

IV. CONSENT ITEM

Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract for Analysis of the Lake Placid Dam

This resolution authorized the City Manager to enter into a contract for the above to URS Corporation, 200 Orchard Ridge Drive, Suite 101, Gaithersburg, Maryland 20878, in the amount of Thirty Thousand Five Hundred Ninety-Three Dollars (\$30,593); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster seconded by Council Member Marraffa that the Consent Agenda (Resolution No. R-93-06), be approved.

Vote: 3-0

V. APPOINTMENTS**Resolution Confirming Appointments and Reappointments by the Mayor**

This resolution confirms the following: **Commission on Landlord/Tenant Affairs**, Jennifer Spieler Weil (at large - appointment), 19 Earth Star Place, Gaithersburg, Maryland 20878, three-year term; **Market Square Advisory Committee**, Nannette Horan (reappointment), 144 Little Quarry Road and Randi Meyrowitz (reappointment), 114 Market Street, Gaithersburg, Maryland 20878, two-year terms; **Police Chief's Advisory Committee**, Rick Grimes (appointment), 9 Pavilion Drive, Gaithersburg, Maryland 20878, two-year term.

Motion was made by Council Member Schlichting, seconded by, Council Member Marraffa, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS TO THE COMMISSION ON LANDLORD/TENANT AFFAIRS, MARKET SQUARE ADVISORY COMMITTEE, AND THE POLICE CHIEF'S ADVISORY COUNCIL (Resolution No. R-94-06), be approved.

Vote: 3-0

VI. PRESENTATIONS**1. Proclamations**

- Mayor Katz issued a Proclamation of the Mayor and City Council designating September 17 – 23, 2006, as “*Constitution Week*” in the City of Gaithersburg. Proclamations were presented to the Goshen Mills Chapter (Susan Eannoney) and the Hungerford's Tavern Chapter (Kathryn E. George) of the National Society of the Daughters of the American Revolution. September 17, 2006 marks the 219th anniversary of the signing of the Constitution of the United States of America.
- Mayor Katz along with Nivea Cordova-Berrios, member of the Multicultural Affairs Committee, issued a Proclamation of the Mayor and City Council designating September 15 through October 15, 2006, as “*National Hispanic Heritage Month*” in the City of Gaithersburg. Sila Alegred-Bartel, Greater Maryland Hispanic Chamber of Commerce was joined at the podium by other individuals of the Hispanic community to receive the Proclamation.

2. City Manager's Day Laborer Report

City Manager Humpton read the following statement:

“Last Friday, I received formal notice from a representative of the owner of the shopping center at 117 North Frederick Avenue that he will be closing the parking lot for use as an informal day laborer assembly site on Wednesday, September 20, 2006. Our police are coordinating with County police, the State's Attorneys office and City staff to inform the workers of the owner's decision. Appropriate bilingual flyers are being distributed as of this morning.

I've also been informed by Grace United Methodist Church that the day laborers may continue to utilize the front lawn area of the church facing 355 and continue to use the church bathrooms. The workers will not be able to use the rear church parking lot.

This could create a traffic problem given that it is possible that some of the day laborers will simply move from the shopping center lot to the front grounds of the church. Since there is no spot for contractors to pick up workers on the church site they may be tempted to stop in the traffic lanes. To manage this, the City will be installing signs prohibiting stopping or standing on Walker Avenue. In coordination with the State Highway Administration, we expect that similar signs will also be installed in various spots along Route 355. This is a safety measure given the circumstances.

Of course, we are continuing to pursue a location for a day laborer center but still do not have a definitive answer from any landlord or property owner. I reported during the Mayor and Council meeting on September 5th that a local shopping center within the City that staff believes meets the spirit of the task force criteria and the needs of the workers and the contractors was being investigated and that site is still a possibility. We are providing the owners with any information they ask us for as they evaluate this use, but we do not have any letter of intent to bring forward.

Until a site is found, we are referring workers to the Wheaton and Silver Spring sites, as well as Labor Ready on Shady Grove Road. The bilingual flyers we began distributing this morning contain information about those alternatives and provides the bus routes involved in reaching them. It has also been suggested that an interfaith group could provide bus tokens to those who might not be able to afford public transportation.”

VII. PUBLIC APPEARANCES

1. *Patty Kaczmariski, 11127 Captains Walk Court*, spoke on behalf of the Gaithersburg Affordable Housing Coalition and asked for a coordinated approach to affordable housing. She asked that the City provide and preserve housing in the low income range.
2. *Pamela Lindstrom, 421 Gaither Street*, gave a brief PowerPoint presentation showing what the City can do to become famous in building affordable housing. She showed various architectural structures in Australia and Austria.
3. *Maggie Gifford, 9 Ramsdell Court*, member of the Gaithersburg Affordable Housing Coalition, spoke on preserving affordable housing. She stated that the lost of affordable housing could lead to worker shortages, increased traffic and potential for increased homelessness. Suggested to reach affordable housing goals, financial tools such as tax exempt financing and low income housing tax credits can be used. She asked the City to devise an innovative plan.
4. *Linda Gore, 60 Oak Shade Road*, member of the coalition mentioned above. Stated that when considering an affordable housing policy, asked that the City maintain a mixture of housing types, the percentage of affordable housing should not be lower then the county, focus on creating a broad variety of housing opportunities and homeownership, Moderate Priced Dwelling Units and Workforce housing, and green design requirements.
5. *Elizabeth Hosholder, Gaithersburg resident*, asked that the City consider not only redevelopment for affordable housing, but the preservation and maintenance of existing housing. Suggested that the City consider assisting with refinancing of existing properties, give initiatives to current owners to make improvement and keep in the affordable housing range.
6. *Thomas Cowley, 14617 Devereaux Terrace*, supported the remarks of the preceding speakers. Stated that the City has a responsibility to preserve affordable housing and asked that the City go beyond the units being proposed for pending redevelopment.
7. *Dallas Mosman, 658 Chestertown Street*, commended the time and effort given to the day laborer issue by the Mayor and City Council. He asked the City to do what is in the best interest of all of its residents.

8. *Cathy Drzyzgula, 16 Walker Avenue*, spoke on behalf of her neighbor Dan Searles stated that a temporary remedy created with good intentions has become a barrier to solving the day laborer issues. He asked that all work together to find a solution on this difficult issue.
9. *Susan Payne, Gaithersburg resident*, referred to the Constitution and gave a brief history on America. She asked the Mayor and City Council to defend and protect the rights of citizens of the United States and the laws of our Nation. Supports deportation of those breaking the laws of the United States of America.
10. *Michael Stumborg, 15 Walker Avenue*, thanked the City Council for bringing peace to his neighborhood and stated that the day laborer issues are not about race. Asked that other alternatives and locations be sought for find a solution to a day laborer center site.
11. *Edward Richley, 14 Walker Avenue*, thanked the Mayor and City Council for dealing with a year of difficult issues in the City.
12. *Karyn Ryan, 17 Walker Avenue*, thanked the Mayor and City Council for being proactive in moving forward to relocate the day laborers to a temporary site. Asked that the City find a long term resolution to the center.
13. *Demos Chrissos, Tschiffely Square Road*, spoke on the concept of tolerance and respecting ones opinion. He stated that the issue for the City of Gaithersburg is legal vs. illegal and that the day laborer center only adds to the confusion.

VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Marraffa

1. Thanked staff for their efforts during the 25th Anniversary "Celebrate Gaithersburg" in Olde Towne.
2. Reported that he serves as the Chairman on the National League of Cities Economic Development Committee. The committee recently held a meeting in Milwaukee and discussed issues regarding affordable housing, immigration and the vitality of cities. He also shared that he saw a well planned out mix of housing in Milwaukee and will submit information to staff.

Council Member Alster

Echoed thanks to staff for the preparation and cleanup of "Celebrate Gaithersburg" in Olde Towne.

Council Vice President Schlichting

1. Commended staff and volunteers for their time and organization not only for "Celebrate Gaithersburg" in Olde Towne but for the Labor Day Parade, 5k run/race and the upcoming Oktoberfest event.
2. He and other City Council Members attended the fundraiser Denim and Diamonds on Friday, September 15, 2006. The proceeds will benefit the Wells/Robertson House.
3. Announced that the new East Side Youth Center is operating quite well and plans and funding for the aquatic center is moving forward. He suggested touring various senior centers before the Mayor and City Council retreat in January 2007 in preparation for budgeting for the proposed new senior center.
4. Announced the following upcoming event: City's Crab Feast and Karaoke Night on Saturday, September 30, 2006 at the Montgomery County Fairgrounds, admission \$35 for residents and \$39 for nonresidents. Doors open at 5:30 p.m. with crabs being served from 6:30 to 8:30 p.m.

Mayor Katz

1. Applauded staff on the efforts during the “Celebrate Gaithersburg” in Olde Towne” street festival held September 17, 2006. He congratulated and recognized the Boys Scouts of America – Forest Oak District named for Outstanding Organization; Michael Gordon, District 17 Delegate for the past 23 years, as Distinguished Friend; and Eileen Shea, Gaithersburg’s Distinguished Citizen Award for 2006.
2. Announced the following Mayor and City Council upcoming meetings:
 - Joint Work Session on Monday, September 25, 2006 to discuss SDP-04-001, Schematic Development Plan for Quince Orchard Park, The Vistas, Mixed Housing Development, including 13 Single Family Detached Units, 38 Townhouses and 32 (2 over 2) Condominium Units.
 - Regular meeting on Tuesday, October 3, 2006, Joint Public Hearings on SDP-06-003, “Lakelands Lane in the Woods” and “Affordable Housing Requirements”
 - Special meeting of the Mayor and City Council on Monday, October 9, 2006, for a Joint Public Hearing “Adequate Public Facilities Ordinance” and a Public Hearing Before the Historic District Commission, HAWP-37E, Applicant Stephen Orens for Hamza/Halici, Inc., Request for Demolition of the Historic Talbott House (Hair Bar) at 309 North Frederick Avenue

IX. FROM THE CITY MANAGER HUMPTON

Recognized and thanked the City’s citizen committee for their efforts to make “Celebrate Gaithersburg” in Olde Towne a day to be enjoyed by the community.

X. PUBLIC HEARINGS

1. **JOINT – Z-303(o), Proposal to Rezone 1.2099 Acres of Land, Currently Known as Lot P-87, the Duane Property, Located Off Game Preserve Road Between Arrowsmith Court and Travis Avenue in the City of Gaithersburg, From the Existing C-2 (General Commercial) Zone to the E-1 (Urban Employment) Zone, Under the Optional Method of Rezoning, in Accordance With §24-196 (map amendments) and §24-198 (optional method) of the City Code**

Planner Robinson stated the joint public hearing was advertised in the *Gaithersburg Gazette* on August 30 and September 6, 2006, and the property properly posted. He oriented the Mayor and City Council and Planning Commission with the site.

Jody Kline, Miller, Miller and Canby, representing the applicant for the rezoning application introduced the speakers making presentations.

Diane Tipton, America Storage Property, stated her company has developed 25 self-storage facilities over the last 12 years along with large and small office, retail, residential and student housing. She stated that economically it was determined that self-storage was the best use for the property due to demand. She further stated that the development would limit traffic generation.

Trey Burke, pointed out the existing features of the site and reviewed an aerial. He stated that the typography is a distinguished characteristic of the existing site. He reviewed the proposed elevations of the site. He stated that the development would be seen from Travis Avenue but

would not have frontage on said road. He further stated that the building would be 15 feet taller than the existing grade when completed.

Mike Plitt, Project Manager, Macris, Hendricks & Glascock, P.A., reviewed several renderings and stated that a forest conservation plan will be developed for the site along the rear of the building and along Game Preserve Road. He further stated that stormwater management and storm drain issues are being addressed, and water and sewer are available to the site. He added that a 50 – foot public right-of-way will be provided.

Sam Butz, architect, reviewed the elevations further for the public, the proposed materials to be used and pointed out access to the building on Game Preserve Road.

Mayor Katz asked staff to investigate the floor area ratio of the storage facility on Route 355 for comparison. Several members of the City Council and Planning Commission were not impressed with the architectural design of the building and asked for a more attractive design. It was suggested that the building incorporate features of a green building. In response to a question, it was stated that access to the building is on one side of the building with security on site. It was also stated that it is a LEED sensitive building with a flat top roof with 10-12 condensers.

Speakers from the public:

1. *Adam Heifetz, 19229 Gatlin Drive*, expressed concern with traffic safety on the road with moving trucks. He asked that the road be widened and improved for the proposed development. He also expressed concern with trash on the property.
2. *Peter ??, Everheart Drive*, expressed similar concerns with the width of Game Preserve Road and traffic from trucks accessing the property. He also had safety concerns with the access to Travis Avenue.
3. *Edwin Gaynor, 19209 Jericho Drive*, stated dislike for the architectural and expressed concern with the width of Game Preserve Road. He asked that a comprehensive plan be done with the City and the county before considering the development.
4. *Bruce Sturtz, 10700 Game Preserve Road*, stated concern with safety on Game Preserve Road, exiting onto Route 355, fire access, and drainage problems.
5. *Jay Long, 10800 Game Preserve Road*, also expressed safety and traffic concerns with regards to Game Preserve Road and the proposed development. He stated that road improvements are needed before any project is considered.

Several members of the City Council and Planning Commission added concern with the elevations, width and safety of the road and traffic, and the design of the building. Staff was asked to provide the vision of the Master Plan recommendation for Game Preserve Road.

Motion was made by Commissioner Levy, seconded by Commissioner Kaufman, to hold the Planning Commission record open indefinitely.

Vote: 5-0

Motion was made by Council Member Alster, seconded by Council Member Schlichting, to hold the City Council open indefinitely.

Vote: 3-0

Mayor Katz recused himself from the meeting for the next agenda item, Council Vice President Schlichting presided.

2. An Ordinance Declaring a One Hundred and Twenty (120) Day Deferral on Redevelopment of Multi-Family Dwellings in the R-18, R-20, R-H, CD, CBD, RPT, and MXD Zones

City Manager Humpton stated that the public hearing was advertised in the *Gaithersburg Gazette* on September 8, 2006. The deferral would give the City Council an opportunity to adopt an affordable housing ordinance and accompanying regulations prior to any redevelopment that would displace lower income residents. Additionally, the deferment period would provide the opportunity to review the permitted densities in existing residential zones that are ripe for redevelopment and determine if any changes are appropriate.

Council Vice President Schlichting expressed concern with the first WHEREAS of the ordinance which states that numerous existing multi-family rental communities are under contract for sale and potential redevelopment. He questioned whether it was still the case due to changes in market conditions. City Manager Humpton responded that staff will investigate and come back with an answer. Mr. Schlichting also referred to the third WHEREAS determining whether some permitted densities in the residential zones are inappropriate and should be reviewed prior to potential redevelopment. He and Council Member Marraffa questioned whether or not the subject had been discussed publicly. Mr. Humpton responded that he didn't think it was publicly discussed, but that staff has focused on the R-20 Zone and believes that it should be re-examined.

Speakers from the public:

1. *Robert Drzyzgula, 16 Walker Avenue*, questioned why the City is only focusing on multi-family redevelopment. He stated the City should also be concerned about new development and affordable housing. He suggested the City offer incentives for the rehabilitation of older properties. He stated that affordable housing should go beyond the older parts of Gaithersburg and be distributed throughout the City.
2. *Thomas Cowley, 14617 Devereaux Terrace*, submitted a petition supporting the 120-day deferral for redevelopment to develop a comprehensive affordable housing policy. He suggested that it require a minimum of 12.5 percent of Moderate Priced Dwelling Units and 12.5 Workforce Housing Units for both rental and ownership units and that there be a 30-year control period attached to the units.
3. *Jim Clifford, 320 East Diamond Avenue*, referred to the 120-day deferral on residential redevelopment and as the Central Business District in Olde Towne be exempted. He stated that the four month moratorium would cause a hardship to pending projects.
4. *Linda Gore, 60 Oak Shade Road*, expressed support for the 120-day residential redevelopment to address the issues of affordable housing in the City.
5. *Pamela Lindstrom, 421 Gaither Street*, expressed support for the 120-day residential redevelopment and asked the City to take the opportunity to look at the residential areas along Route 355.
6. *Demos Chrissos, Tschiffely Square Road*, expressed concern with the 120-day deferral and the changing conditions of the market. Suggested that the City consider exempting various redevelopment projects in critical areas from the deferral.
7. *Ann Gray, Silver Spring resident*, expressed support for the 120-day deferral for residential redevelopment to address the affordable housing issues in the City.

8. *William Root, 419 Russell Avenue*, expressed support for the 120-day deferral on residential redevelopment and asked that the City match the affordable housing of Montgomery County. He asked the City Council to avoid the loss of existing affordable housing due to redevelopment.

There were no other speakers at the hearing.

Council Vice President again expressed concern with the 120-day residential deferral stating that the market does not dictate that a moratorium on redevelopment is needed.

Council Member Marraffa stated that the City is working on affordable housing and that a moratorium will not accomplish the vision for more affordable housing. He expressed opposition to a deferral for residential redevelopment.

Council Member Alster stated that the issue is not about affordable housing, but about the redevelopment of multi-family. He stated that regardless of what the market says, he felt that there is a need to stop and take a look across the City at redevelopment. He further stated that a project underway should not be stopped.

Motion was made by Council Member Marraffa, seconded by Council Member Schlichting, to close the City Council record for the above Ordinance on October 18, 2006.

Vote: 3-0

Mayor Katz returned at 9:55 p.m. to preside over the remainder of the meeting.

XI. ORDINANCES, RESOLUTIONS, AND REGULATIONS

Resolution Authorizing the Mayor to Sign the U.S. Mayors Climate Protection Agreement

Environmental Services Director Shingara stated that the Maryland Chapter of the Sierra Club and several City residents has requested that Gaithersburg join the *Cool Cities Campaign (CCC)* by signing the U.S. Mayors Climate Protection Agreement (MCPA). She gave a brief presentation on CCC and MCPA. She stated that scientist have found that climate disruption is a reality and that human activities are largely responsible for increasing concentrations of global warming pollution. She further stated that the state and local governments throughout the nation are voluntarily conducting emissions inventories and striving to reduce global warming pollutants through programs that provide economic and quality of life benefits such as reduced energy bills, greenspace preservation, air quality improvements, reduced traffic congestion, improved transportation choices, and economic development and job creation through energy conservation and new energy technologies. She stated that the Environmental Affairs Committee has recommended that the City sign the Agreement as a first step and that the City initiate cost-effective local strategies that save energy and taxpayer dollars, improve public health, and reduce emissions.

Motion was made by Council Member Schlichting, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE MAYOR TO SIGN THE U.S. MAYORS CLIMATE PROTECTION AGREEMENT AS AMENDED AT THE 73RD ANNUAL U.S. CONFERENCE OF MAYORS MEETING (Resolution No. R-95-06), be approved.

Vote: 3-0

XII. POLICY DISCUSSION AND STAFF GUIDANCE

SDP-06-002, The Goddard School, Application Requests to Amend the Previously Approved Schematic Development Plan, SDP-00-002, the Crescent at Quince Orchard Park. The Current Application (SDP-06-002) Requests a Change of Use From Office to a Private Educational Institution for 14,517 Square Feet of the Previously Approved Building. The Remaining 8,383 Square Feet will be Office. The Original Application has been Modified to Allow 13,000 Square Feet for Private Educational Institution and 9,900 Square Feet of Office. The Subject Property is Located at 900 Wind River Lane, Lot 6, Quince Orchard Park Crescent, and is in the Mixed Use Development (MXD) Zone

Planner Marsh stated that a joint public hearing for the above was held on August 7, 2006. At the meeting of September 6, 2006, the Planning Commission recommended approval of the SDP amendment with the following four conditions: 1) The use for the school shall be established at 13,000 square feet and for the office at 9,900 square feet, as shown on the amended site plan; 2) The Mayor and City Council shall establish the parking calculation for the subject private educational use to be 1.5 parking spaces per employee; 3) The applicant shall provide masonry screening for the dumpster enclosure to match the existing building elevations; and 4) The application shall provide designated parking areas for the parent drop-off and pick-up, and strictly enforce no parking along the sidewalk/curbs. The Planning Commission closed their record on August 28, 2006 and the record for the Mayor and City Council closed on September 8, 2006. She stated that if approved by the City Council, the plan will go forward to the Planning Commission for final site plan review. She further stated that the City Public Works staff has reviewed the amended plan.

Staff was directed to prepare the necessary document for final action at the Mayor and City Council meeting scheduled for Tuesday, October 3, 2006.

XIII. FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF

- **Staff recommendation for closing of the record – T-372, Amendment to Site Development Plans**

Planning and Code Administration Director Ossont stated that the proposed text amendment would allow staff to create a "consent agenda" for the Planning Commission, as well as allow small residential additions to be processed as minor amendments for properties that are subject to a site development plan. The text amendment does not apply to older properties which are not subject to site development plans. Staff suggested closing the record for the above on Wednesday, September 27, 2006 at 5 p.m.

Motion was made by Council Member Marraffa, seconded by, Council Member Alster, that the Mayor and City Council record on T-372, be closed as of September 27, 2006, 5 p.m.

Vote: 3-0

XIV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 10:05 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant

